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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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BLACK LOVE RESISTS IN THE RUST, by 18-CV-719 (CCR)
and through its co-directors Natasha
Soto and Shaketa Redden and on
behalf of its members agent Just
Resisting; Dorethea Franklin; Taniqua
Simmons; De'Jon Hall; and Jane Doe,
individually and on behalf of a class
Of others similarly situated,
Plaintiffs
vs.

Buffalo, New York
December 21, 2018
11:02 a.m.

CITY OF BUFFALO, NY; BYRON B. BROWN,
Mayor of the City of Buffalo, in his
individual and official capacities;
BYRON C. LOCKWOOD, Commissioner of the
Buffalo Police Department, in his
individual capacity; DANIEL DERENDA,
former Commissioner of the Buffalo
Police Department, in his individual
capacity; AARON YOUNG, officer of the
Buffalo Police Department, in his
individual capacity; KEVIN BRINKWORTH,
PHILIP SERAFINI, officer of the Buffalo
Police Department, in his individual
capacity; UNKNOWN SUPERVISORY PERSONNEL
1-10, officers of the Buffalo Police
Department, in their individual capacities;
and UNKNOWN OFFICERS 1-20, officers of the
Buffalo Police Department, in their
individual capacities,
Defendants.

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TRANSCRIPT OF TELEPHONE CONFERENCE
BEFORE THE HONORABLE CHRISTINA CLAIR REISS
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S

CENTER FOR CONSTITUTIONAL RIGHTS

BY: CLADIA WILNER, ESQ.

DARIUS CHARNEY, ESQ.

ANJANA MALHOTRA, ESQ.

BRITTNEY WILSON, ESQ.

666 Broadway, Floor 7

New York, New York 10012

- and -

NATIONAL CENTER FOR LAW AND ECONOMIC JUSTICE

BY: TRAVIS W. ENGLAND, ESQ.

275 7th Avenue, Suite 1506

New York, New York 10001

Appearing on behalf of the Plaintiffs

CITY OF BUFFALO DEPARTMENT OF LAW

BY: ROBERT M. QUINN, ESQ.

65 Niagara Square

Buffalo, New York 14202

Appearing on behalf of the Defendants

AUDIO RECORDER: Jane Kellogg

TRANSCRIBER: Christi A. Macri, FAPR-CRR

Kenneth B. Keating Federal Building

100 State Street, Room 2120

Rochester, New York 14614

(Proceedings recorded by electronic sound recording,
transcript produced by computer).

P R O C E E D I N G S

* * *

THE COURT: Good morning, this is Judge Reiss.

THE CLERK: Good morning, Judge Reiss. This is Jane Kellogg. Would you like me to call the case?

THE COURT: Yes, please.

THE CLERK: Your Honor, we're here in the matter of Black Love Resists, et al., vs. The City of Buffalo, et al., Docket No. 18-CV-719.

All the attorneys are present on -- via the telephone, so if we could have each attorney please state your name and the party you represent for the record, and we'll the start with the plaintiffs' attorneys.

MS. WILNER: This is Claudia Wilner from the National Center for Law and Economic Justice for the plaintiffs.

MR. ENGLAND: This is Travis England with the National Center for Law and Economic Justice for the plaintiffs.

MS. WILSON: This is Brittney Wilson with the National Center for Law and Economic Justice for the plaintiffs.

MR. CHARNEY: Good morning, Your Honor. This is Darius Charney from the Center for Constitutional Rights also for the plaintiffs.

1 **MS. EZIE:** And hello. This is Andrea Chinyere Ezie
2 from the Center for Constitutional Rights for the plaintiffs.

3 **MS. MALHOTRA:** Anjana Malhotra from the Center for
4 Constitutional Rights for the plaintiffs.

08:47:23AM 5 **MR. QUINN:** This is Robert Quinn on behalf of the
6 defendants.

7 **THE COURT:** Okay. So what I'd like to ask is that
8 (distorted audio) each time you speak you identify yourself
9 (distorted audio) spokesperson for the plaintiffs, let me
08:48:45AM 10 know. It's really hard to do these on the telephone, but it
11 does not make sense to have you all come in during this busy
12 time.

13 So I do know last time we talked I told you I was
14 going to keep an eye on what was going on with regard to
08:49:11AM 15 discovery. You advised me that you thought that you needed a
16 lot of discovery before class certification.

17 And so I'm checking on this now to determine how
18 that is going and I'm going to start with the spokesperson
19 from the plaintiffs.

08:49:33AM 20 **MS. WILNER:** Thank you, Your Honor. This is Claudia
21 Wilner with the National Center for Law and Economic Justice.

22 The plaintiffs served discovery requests on the
23 defendants. As Your Honor suggested and we spoke about last
24 time, our requests were very much focused on the information
08:49:56AM 25 that we need to develop in order to get our class certified.

1 We are very disappointed in what we have received
2 so far from the defendants. We have had several
3 meet-and-confer by telephone with the defendants. My
4 understanding is that they do -- their searches are ongoing
08:50:30AM 5 and they do intend to continue production. So far the
6 production has been extremely minimal and has not included any
7 ESI materials at all.

8 But we've also identified some areas of -- I'll say
9 disagreement in terms of the scope of our requests, certain
08:51:30AM 10 information that we're entitled to. And so we were hoping
11 that we might be able to clarify some of those disputes today.

12 And the only other thing I guess I'd say is
13 that our requests were fairly broad and we're expecting
14 that -- that the process will be staged, and so the fact that
08:52:02AM 15 we're not waiving things in the early initial call doesn't
16 mean that there aren't other issues that we may not need to
17 raise down the line.

18 **THE COURT:** Let me hear from -- do we need any other
19 spokesperson for the plaintiffs?

08:52:34AM 20 **MS. WILNER:** I expect that for some of the issues we
21 want to discuss Darius Charney from the Center for
22 Constitutional Rights will also speak.

23 **THE COURT:** All right. Let's check with the
24 defendant about the status on that issue.

08:53:22AM 25 **MR. QUINN:** So the discovery requests were served --

1 **THE COURT:** This is who?

2 **MR. QUINN:** This is Robert Quinn on behalf of
3 defendants. Sorry, Judge, I'm the only one here.

4 The -- the discovery requests were served on
08:53:46AM 5 November 4th or 5th. We responded in a timely manner on
6 December 5th. We responded with thousands of pages of
7 documents. We did so in an attempt to keep things moving as
8 opposed to ask for an extension of time.

9 The discovery requests, as the Court I believe
08:54:11AM 10 would imagine, are wide-ranging, extensive and basically
11 asking for a huge amount of documents.

12 We previously indicated and I thought this was the
13 understanding, I might be mistaken given the plaintiffs'
14 indication that they are somehow disappointed, that this would
08:54:40AM 15 be part of an ongoing, sort of a rolling discovery response,
16 like I said, as opposed to just asking for continuous
17 extensions of time, but to try to get things moving.

18 I did that, as I said, in a timely manner. We
19 produced a large volume of documents. We've had two
08:55:10AM 20 meet-and-confers since then where numerous things have been
21 discussed. At each time for some reason the plaintiffs have
22 five or six attorneys on the phone as they do here.

23 In an attempt to move things forward I indicated
24 that discovery responses will continue. I've tried to work
08:55:39AM 25 through any types of issues that the -- that the plaintiffs

1 have raised, and we continue to look for documents.

2 But given who we are, what is being asked for, this
3 is going to take some time. I don't think we're being in any
4 way, shape or form unreasonable. I think we've gone above and
08:55:59AM 5 beyond in trying to get this moving.

6 I can't think of another defense firm that wouldn't
7 have asked for more time given the responses that were there.
8 So we disagree. With that said, I don't mean this to be
9 argumentative. We are trying to work through this and I
08:56:21AM 10 expect that, you know, I'm hopeful that we will be able to do
11 that.

12 **THE COURT:** Okay. (Distorted audio) ambush for both
13 the Court and defendant to adjudicate discovery disputes at
14 this point in time. So the way -- I currently have an
08:56:58AM 15 (distorted audio) anti-trust case and the way it is proceeding
16 is working well for us and (distorted audio) meet-and-confer
17 will narrow the issues that need my involvement. I -- you
18 (distorted audio) send me a letter (distorted audio) this is
19 what I need, this is what I'm not getting, and I will set up a
08:57:40AM 20 telephone conference or a video conference and say yes, no,
21 yes, no and we can bypass the whole motion to compel process
22 that way.

23 If you get down to a motion to compel, we don't
24 have them in the District of Vermont, but I won't hesitate if
08:59:11AM 25 I see wholesale (distorted audio) non-compliance or sizable

1 attorneys fees (distorted audio). Likewise if the requests
2 are, you know, ridiculously broad and will put anybody to an
3 undue burden (distorted audio) I know it when we see it
4 because we just don't have this kind of disputes on an
09:00:50AM 5 ordinary basis.

6 So the smart money is on really narrowing the
7 disputes for something that you can't possibly resolve on your
8 own (distorted audio). So I expect you to oblige the rules
9 and meet-and-confer in a (distorted audio) basis to bypass
09:01:37AM 10 that process and my understanding from what I'm (distorted
11 audio) from both of you is that you haven't reached that
12 (distorted audio).

13 So I'm kind of diametrically opposed to what
14 development that (distorted audio) has happened so far
09:02:49AM 15 (distorted audio) with that guidance you couldn't go forward
16 and say two weeks to 30 days you bring back to me anything you
17 can't resolve.

18 **MS. WILNER:** That sounds like a reasonable process
19 to us , Your Honor.

09:03:37AM 20 **THE COURT:** (Distorted audio). This is Ms. Wilner?

21 **MS. WILNER:** Yes, I apologize. This is Claudia
22 Wilner. And, yes, that timeframe sounds reasonable to us.

23 I will say, if I may, that the thousands of pages
24 consisted of information that was previously provided to us
09:04:05AM 25 under the Freedom of Information Law as well as the rules and

1 regulations of the police department and the content -- a
2 single contract. So although it may have been thousands of
3 pages, much of it was information that we already had.

4 **THE COURT:** But did the defendants know that?

09:05:01AM 5 **UNIDENTIFIED SPEAKER:** Yes.

6 **MS. WILNER:** Yes, they (indiscernible) that same
7 information to us previously under the Freedom of Information
8 Law.

9 **THE COURT:** Okay.

09:05:25AM 10 **MR. QUINN:** Which is why it was available and able
11 to be produced in the time period given the scope of it.

12 **THE COURT:** And is this Mr. Quinn?

13 **MR. QUINN:** It is. I'm sorry, Judge.

14 **THE COURT:** Okay. Mr. Quinn, do you think that you
09:05:51AM 15 can meet-and-confer and then get back to me with (distorted
16 audio) disputes?

17 **MR. QUINN:** I do. I think that is the reasonable
18 approach. I think -- I don't think we're actually that far
19 off. A lot of these sort of, you know, quote/unquote,
09:06:18AM 20 disputes have to do with breadth and burden and things like
21 that.

22 And on my end I'm still sort of working through
23 exactly what it takes to find all of this information. So I
24 think it does make sense to meet-and-confer and then report
09:06:54AM 25 back.

1 **THE COURT:** Okay. All right. So what I'm going to
2 do is I'm going to let you meet-and-confer. I am going to
3 wait until you contact me and then we're going to arrange a
4 telephone call from (distorted audio) maybe something in
09:07:26AM 5 person after I see the magnitude of the dispute.

6 So what my other (distorted audio) sending me a
7 three-page letter describing what they think is the problem,
8 they might have some exhibits. Please do not send me 5,000
9 pages of exhibits (distorted audio) it's a recent trend and
09:08:31AM 10 sometimes people are submitting disk drives. That is not
11 going to be helpful. So narrow the dispute, show me what you
12 need me to see to adjudicate it and we'll go from there, okay?

13 **MR. CHARNEY:** Your Honor, this is Mr. Charney. Just
14 one clarifying question, if I may? So would each side submit
09:09:10AM 15 separate letters or is your expectation some sort of joint
16 submission where each side kind of lays out its position?

17 **THE COURT:** I am not so unreasonable to expect a
18 joint submission (distorted audio). That would be expecting
19 too much. So separate letters is fine.

09:09:49AM 20 **MR. CHARNEY:** Thank you, Your Honor.

21 **THE COURT:** All right. Then that's our plan forward
22 (distorted audio) and I will hear from you first and then you
23 will hear from me.

24 **MR. CHARNEY:** Thank you, Your Honor.

09:10:11AM 25 **THE COURT:** Anything further?

1 **MR. CHARNEY:** I don't believe so.

2 **MR. QUINN:** Not on behalf of the defendants at this
3 time, Your Honor.

4 **THE COURT:** Okay. Happy holidays to all of you.

09:10:25AM 5 **MR. CHARNEY:** You as well, Your Honor.

6 **THE COURT:** Thank you.

7 (WHEREUPON, proceedings adjourned at 11:13 a.m.)

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10 **CERTIFICATE OF TRANSCRIBER**

11

12 In accordance with 28, U.S.C., 753(b), I certify that
13 this is a true and correct record of proceedings from the
14 official electronic sound recording of the proceedings in the
15 United States District Court for the Western District of New
16 York before the Honorable Christina Clair Reiss on December
17 21st, 2018.

18

19 S/ Christi A. Macri

20 Christi A. Macri, FAPR-CRR
21 Official Court Reporter

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